

Title	Uniform Standards of Practice for Court-Connected Child Custody Mediation (amend Cal. Rules of Court, rule 1257.1)
Summary	The proposed amendment to rule 1257.1 would require each court to ensure that mediation services provide a written description of the confidentiality of the process to parties.
Source	Family and Juvenile Law Advisory Committee
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Discussion	<p>As of July 1, 2001, court-connected mediation services and courts will be required to comply with rule 1257.1, which provides uniform standards of practice for court-connected child custody mediation. As the rule is currently written, mediation services must provide parent education or orientation on the mediation process that includes an explanation of the mediator's role and the circumstances that may lead the mediator to make a particular recommendation to the court. However, there is no requirement that mediators provide a written description clarifying the limitations on confidentiality in the mediation process. The amendment would address this deficiency by adding a new requirement to 1257.1(d)(1)(G) and moving the existing language of 1257.1(d)(1)(G) to a new section as 1257.1(d)(1)(H). The proposal responds to the concern raised by advisory committee members that many litigants do not have enough information about the circumstances under which court-connected mediation proceedings may or may not be confidential.</p>

Rule 1257.1 of the California Rules of Court would be amended, effective January 1, 2002, to read:

Rule 1257.1 Uniform standards of practice of court-connected child custody mediation

(a)–(c) * * *

(d) [Responsibility for Mediation Services]

(1) Each court shall ensure that:

- (A) Mediators are impartial, competent, and uphold the standards of practice contained in this rule of court.
- (B) Mediation services and case management procedures implement state law and allow sufficient time for parties to receive orientation, participate fully in mediation, and develop a comprehensive parenting plan without unduly compromising each party's right to due process and a timely resolution of the issues.
- (C) Mediation services demonstrate accountability by:
 - (i) Providing for acceptance of and response to complaints about a mediator's performance;
 - (ii) Participating in statewide data collection efforts; and
 - (iii) Disclosing the use of interns to provide mediation services.
- (D) The mediation program uses a detailed intake process that screens for, and informs the mediator about, any restraining orders or safety-related issues affecting any party or child named in the proceedings to allow compliance with relevant law or court rules before mediation begins.
- (E) Whenever possible, mediation is available from bilingual mediators or other interpreter services that meet the requirements of Evidence Code sections 754(f) and 755(a) and section 18 of the California Standards of Judicial Administration.

1 (F) Mediation services protect, in accordance with existing law,
2 party confidentiality, in:

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4 (i) Storage and disposal of records and any personal
5 information accumulated during the mediation process;

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7 (ii) Interagency coordination or cooperation regarding a
8 particular family or case; and

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10 (iii) Management of child abuse reports and related
11 documents.

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13 (G) Mediation services provide a written description of limitations
14 on the confidentiality of the process.

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16 ~~(G)~~ (H) Within one year of the adoption of this rule, the court adopts a
17 local court rule regarding ex parte communication.

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19 (2) * * *

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21 ~~(e)-(g)~~ * * *